

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Committee

BILL: SB 1384

INTRODUCER: Senator Baker

SUBJECT: School Safety/Bullying

DATE: April 10, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	Matthews	ED	Favorable
2.			CJ	
3.			EA	
4.				
5.				
6.				

I. Summary:

This bill prohibits the bullying and harassment of any public K-12 student or employee and requires school districts to take specific measures to protect students and school employees from the physical and psychological harm of bullying and harassment.

The bill includes specific definitions of bullying and harassment and provides requirements for school districts to adopt a bullying and harassment policy. The policy may not establish categories of students; rather, the policy must afford all students the same protection regardless of their status under the law. The school district's receipt of safe schools funds under the 2007-2008 General Appropriations Act is contingent upon the Department of Education's approval of the school district's policy on bullying and harassment.

This bill creates the following section of the Florida Statutes: 1006.147.

II. Present Situation:

Research

Current research studies stress that bullying includes a wide variety of behavior.¹ All, however, involve a person or a group repeatedly trying to harm someone who is perceived to be weaker or more vulnerable. Bullying behavior can involve direct attacks, such as hitting, threatening or intimidating, maliciously teasing or taunting, name-calling, making sexual remarks, and stealing or damaging belongings; or more subtle, indirect attacks such as spreading rumors or encouraging others to reject or exclude someone.²

¹ <http://www.safeyouth.org/scripts/teens/bullying.asp>

² Ibid.

An article in the Journal of the American Medical Association states that almost 30 percent of teens in the United States (or over 5.7 million) are estimated to be involved in bullying as either a bully, a target of bullying, or both.³ In a recent national survey of students in grades 6 to 10, 13 percent reported bullying others, 11 percent reported being the target of bullies, and another 6 percent said they bullied others and were bullied themselves. Limited available data suggest that bullying is much more common among younger teens than older teens. As teens grow older, they are less likely to bully others and to be the targets of bullies.⁴

Bullying is often a warning sign that children and teens are heading for trouble and are at risk for serious violence.⁵ Teens (particularly boys) who bully are more likely to engage in other anti-social/delinquent behavior (e.g., vandalism, shoplifting, truancy, and drug use) into adulthood. They are four times more likely than non-bullies to be convicted of crimes by age 24, with 60 percent of bullies having at least one criminal conviction.⁶

In one study of junior high and high school students, over 88 percent said they had witnessed bullying in their schools.⁷ Teens who witness bullying can feel guilty or helpless for not standing up to a bully on behalf of a classmate or friend, or for not reporting the incident to someone who could help. They may experience even greater guilt if they are drawn into bullying by pressure from their peers. Some teens deal with these feelings of guilt by blaming the victim and deciding that he or she deserved the abuse. Teens sometimes also feel compelled to end a friendship or avoid being seen with the bullied teen to avoid losing status or being targeted themselves.⁸

Current Provisions in Law

Section 1006.13, F.S., requires each district school board to adopt a Code of Student Conduct⁹ and a policy of zero tolerance for crime and victimization. The zero tolerance law requires the district to take all steps necessary to protect the victim of any violent crime from further victimization.¹⁰

Additionally, State Board of Education rule specifically provides that school boards may assign more severe consequences than normally authorized for violations of the Code of Student Conduct when the offender appears motivated by hostility toward the victim's real or perceived gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.¹¹

*Department of Education Incident Monitoring*¹²

The Department of Education collects data on 21 different types of incidents of crime and violence that take place on a school campus, on school transportation, or at a school-sponsored

³ Nansel, et al, Journal of American Medicine, 285(16), 2094-2100

⁴ Ibid.

⁵ Aggression and Violence Throughout Their Lifetime, D. Olweus, 1992

⁶ Ibid

⁷ Hoover, et al, School Psychology International, 13, 5-16

⁸ Bullying at School: What WE Know and What WE Can Do, D. Olweus, 1993; Peer Harassment in School, Salmivalli, 2001

⁹ s. 1006.07 (2), F.S.

¹⁰ s. 1006.13(1)(b), F.S.

¹¹ Rule 6A-1.0404, F.A.C.

¹² Florida Department Of Education Legislative Bill Analysis dated March 2, 2006

event.¹³ Although current incidents do not include bullying or harassment, the following terms are included as reportable incidents in the survey:

1. Threat or intimidation, which is defined as a threat to cause physical harm to another person, with or without the use of a weapon, which includes the elements of intent, fear, and capability.
2. Sexual harassment, which is defined as an unwanted and repeated verbal or physical behavior with sexual connotations by an adult or student that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment, cause discomfort or humiliation or unreasonably interfere with the individual's school performance or participation.¹⁴ An incident occurs when one person demands a sexual favor from another under the threat of physical harm or adverse consequence.¹⁵

Current School District Policies

The Department of Education reports that approximately 40 percent of Florida's school districts currently have anti-bullying policies in place and employ prevention programs.¹⁶ According to the department, the following bullying prevention plans are currently in place:

- Aggression Replacement Training (ART) - Hernando, Indian River
- Aggressors, Victims, Bystanders - Brevard, Collier, Columbia, DeSoto, Dixie, Escambia, FAU Lab School, Flagler, Glades, Lafayette, Levy, Manatee, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St. Lucie, Union, Volusia
- Bullying Prevention (Olweus) - FAU Lab School, Marion, Orange, Pasco, Pinellas, Sarasota, Seminole, Sumter
- PATHS - Madison, Okaloosa
- PeaceBuilders - Franklin, Gulf
- Positive Action - Charlotte, Leon
- Project ACHIEVE - Charlotte
- Bullying Safe - Lee
- Bully-Proofing Your School - Brevard, Volusia
- Foundations: Creating Safe and Civil Schools - Clay, Duval
- Safe Schools Ambassadors - Seminole
- Success in Stages: Build Respect, Stop Bullying - Union
- TRUST - Miami-Dade

III. Effect of Proposed Changes:

Prohibitions and Definitions

The bill provides legislative intent that school districts employ every reasonable precaution to protect both students and employees from the harmful effects of bullying and harassment during school related and school sponsored activities or through the use of computer access that is

¹³ See The School Environmental and Safety Incident Report (SESIR) at: http://www.firn.edu/doe/besss/sesir_2005.pdf

¹⁴ Rule 6A-19.008(1), F.A.C.

¹⁵ Florida Department Of Education Office of Governmental Relations - March 2, 2006

¹⁶ <http://www.clemson.edu/olweus/evidence.html>

networked as a part of a public K-12 educational institution. Nothing under the bill would be construed to abridge the rights of students or employees protected by the First Amendment of the U.S. Constitution. The bill specifically defines both bullying and harassment and includes identifiable acts, including retaliation against a student or employee who reports alleged bullying or harassment.

Policies and Timelines

The bill requires school districts to adopt policies to prohibit bullying and harassment no later than September 1, 2006. District policies must be developed with community-wide input, including law enforcement, and must contain the following:

- A statement prohibiting bullying and harassment;
- A definition of both;
- A description of expected behavior;
- Consequences for offenses;
- Consequences of wrongful and intentional accusation of an offense;
- Procedures for reporting an offense;
- Procedures for a prompt investigation;
- A process to determine appropriate jurisdiction;
- A procedure for referral of both victim and perpetrator;
- Procedures for reporting incidents to the Department of Education through the School Environmental and Safety Incident Report (SESIR)¹⁷ ;
- Procedures for students and staff to identify, prevent, and respond to offenses;
- Monthly reporting of actions instigated against a perpetrator, to the extent permitted by the Family Educational Rights and Privacy Act;¹⁸ and
- Procedures for publicizing the policy.

Under the bill, school districts would be required to provide all students with the same protections against harassment and bullying regardless of their status under law. This provision in the bill may require further clarification, if the intent is to supersede Rule 6A-1.0404, which specifically provides that school boards may assign more severe consequences than normally authorized for violations of the Code of Student Conduct when the offender appears motivated by hostility toward the victim's real or perceived gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.

School district policies must be integrated into the school curriculum and included as part of other prevention activities implemented throughout the school year.

Under the bill, the Department of Education would be required to develop model policies no later than July 1, 2006 for school district use. The department suggests that more time may be

¹⁷ <http://www.firm.edu/doe/besss/sesir>

¹⁸ The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g
www.ed.gov/offices/OM/fpc/ferpa/index.html

necessary to develop and distribute model policies and for school districts to subsequently respond to the requirements.

Penalties and Funding

The bill would provide for safe schools funding to be contingent upon the department's approval of a district's bullying policy beginning with the 2007-2008 school year and compliance with all requirements outlined in the bill beginning with the 2008-2009 school year. Because safe schools funds are used for many safety and security initiatives, the Department of Education has expressed concerns relative to the withholding of safe school funds for an entire fiscal year and instead suggests the possibility of quarterly payments and withholding of funds when compliance is not met.

Reporting

The bill requires the Commissioner of Education to submit a report annually, on or before January, to the Senate and House of Representatives education committees to include school district data collected on incidences of bullying and harassment. Usually, reports are made to the President of the Senate and the Speaker of the House of Representatives with respect to substantive matters.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The 2005 Legislature appropriated \$75,350,000 for Safe Schools. Each district was guaranteed \$50,000 and the remaining funds were distributed based on a combination of

the Florida Crime Index provided by Florida Department of Law Enforcement and the district share of student enrollment. Withholding of district funds for non-compliance of provisions outlined in the bill may adversely affect other district safety and security initiatives currently in place.

The Department of Education has suggested that adjustment would need to be made to the current management information systems in order for school districts to accurately report incidents of bullying and harassment. The department estimates that an additional staff member would be required at a cost of \$71,487. The department also anticipates a potential reduction in federal funds that could adversely affect school safety funding.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
